

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA,)
)
)
v.) No. 1:15-cr-16-HSM-SKL-6
)
BRENDON MURPHY)
)

ORDER

Before the Court is Defendant Brendon Murphy’s unopposed motion to continue for one week [Doc. 153] the rearraignment (change of plea) currently set for September 30, 2015. Defendant’s rearraignment was previously continued at the request of the government from September 9, 2015 and rescheduled to take place on September 30, 2015 [Doc. 141]. For cause, Defendant states that the government’s investigation is now complete as to Defendant’s leaving the custody of CCA Silverdale and an amended plea agreement is being prepared, but additional time is needed due to AUSA Poole’s involvement in a jury trial. Defendant also requests additional time to review and consider the proposed amended plea agreement with counsel. The motion further states the government has no objection, and agrees that a continuance of the rearraignment is needed.

The Speedy Trial Act (“the Act”) requires that a defendant’s trial commence within 70 days of his initial appearance. 18 U.S.C. § 3161(c)(1). That 70-day period, however, may be tolled by several events, including delays caused by a pretrial motion. *Id.* § 3161(h)(1)(D). In addition, a defendant has a right to speedy trial under the Sixth Amendment. *Barker v. Wingo*, 407 U.S. 514, 515 (1972). The constitutional inquiry requires an ad hoc balancing of the rights of the accused against society’s interest in the delay. *Id.* at 530. Courts are guided in this

balancing test by several factors: the reason for and the length of the delay, the defendant's assertion of his right, and prejudice to the defendant. *Id.*

Here the delay is very short; the reasons for the delay are legitimate, and the government agrees Defendant's request for a continuance is necessary. Because these factors favor the continuance, the motion [Doc. 153] is **GRANTED** and the arraignment will be continued to **October 7, 2015 at 9:45 a.m. [EASTERN]**.

SO ORDERED.

ENTER:

s/ Susan K. Lee

SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE